



Office of U.S. Senator Marco Rubio

Privacy Act Consent Form

In accordance with the provisions of The Privacy Act of 1974 (Public Law 93-579), your written consent is required so that we may contact a federal agency on your behalf. Since e-mails do not contain a valid signature, they do not fulfill the requirements of the law.

- All information must be written in English (Toda la información debe estar en Inglés)
- Required fields are marked by an asterisk (*)
- Please print all information legibly

*Title: (select one) ☒ Mr. ☐ Ms. ☐ Mrs. ☐ Other: _____

*Name: J. Andrew McCarthy Jr.
(First Name) (Middle Name) (Last Name) (Suffix)

*Address: 315 E. Robinson St., Suite #500 *City: Orlando *State: FL

*Zip code: 32801 *Phone: 407-453-0353 Fax: _____ Cell: 407-453-0353

*Date of Birth: [REDACTED] E-mail Address: andrewmccarthy11@gmail.com

*Social Security Number: [REDACTED] *Name of Federal Agency involved with issue: EPA
(Required by most agencies)

If you want information regarding your case released to a third party, please provide the following information:

Name(s) and relationship: _____ E-mail: _____

If you have contacted another congressional office to assist you, please list the office: _____

*COMPLETE THE INFORMATION IN THIS BOX THAT APPLIES TO YOUR CASE (IF APPLICABLE)

Medicare Number (MBI): _____ Type of Application/Claim Filed: _____
(Required for Medicare cases)

Claim, Receipt, or File Number: _____ Office Where Claim/File is located: _____

***REQUIRED:** Briefly state your problem and the outcome you are seeking below. If you need more space, please continue on a separate sheet. This statement must be in English. Please do not simply write "See Attached."

Please remember that a congressional inquiry does not guarantee your desired outcome.

Since 2012, EPA Region 4 has contacted my company, Seal Shield, regarding language on our website, www.SealShield.com. The EPA has found language on that website objectionable, and each time we worked with the EPA to draft language which was not objectionable. Every year, EPA Region 4 finds more language to which it objects, even though the language to which they object had been on our website during multiple prior reviews. EPA Region 4's interpretation of the FIFRA statute seems to be quite different from other regions. Countless other US companies (both inside and outside of Region 4) have language on their website to which Region 4 objects. And Region 4's interpretation of FIFRA is clearly evolving, as they frequently object to language they had reviewed and approved years earlier. We would like for our case to be transferred from Region 4 to another region. I have attached additional pages to this statement.

I hereby authorize the office of Senator Marco Rubio to make the appropriate inquiry on my behalf pertaining to my request for assistance. In addition, I authorize the agency to discuss with the office of Senator Marco Rubio any condition, action, and other information associated with ANY past and present application, claim, appeal, and/or case that I have with the agency.

*Signature (sign in ink): [Signature] *Date: 9/21/2021

This signature must be from an individual who is 18 years of age or older and is requesting assistance or has a pending case with a federal agency. Third party signatures, including those of immediate family members, are not acceptable. Federal agencies will not release information without the signed consent of the proper individual. Electronic Signatures are not valid.

PLEASE RETURN THE COMPLETED FORM BY MAIL, FAX, OR E-MAIL:

Address: U.S. Senator Marco Rubio
201 South Orange Avenue, Suite 350
Orlando, Florida 32801

Fax: (844) 762-1556
E-mail: casework@rubio.senate.gov

Phone: (407) 254-2573
Toll-free: (866) 630-7106

Revised 2/2020

Seal Shield is a healthcare technology company, founded in Jacksonville, Florida in 2006. Its Mission: to “Prevent infections and save lives through technology and data management.” In 2007, Seal Shield introduced the world’s first “dishwasher-safe” keyboards and mice, to address the issue of shared peripherals as a primary cross contamination point and contributor to hospital acquired infections, or HAIs. HAI’s effect nearly two million US hospital patients annually, leading to nearly 100,000 deaths.

Seal Shield’s keyboards and mice are waterproof, washable, and fully submersible in bleach or other healthcare grade disinfectants. Still a small, growing company, Seal Shield is the world’s leading supplier of washable keyboards and mice. Virtually every U.S. hospital and numerous government agencies, including the DOD, VA Medical Center and CDC, use Seal Shield’s infection control products. Additionally, Seal Shield products are exported and distributed worldwide.

In 2008, Seal Shield began implementing a popular, EPA registered, antimicrobial additive into the plastic of its products to protect their surfaces from mold, mildew, and material degradation. Those products, termed “treated articles” by the EPA, are produced overseas and then imported to the U.S. and other markets. Seal Shield has worked with EPA consultants and attorneys to ensure these “treated articles” (keyboards and mice) are compliant with all EPA related regulations, including FIFRA.

Seal Shield has developed expertise in the implementation of EPA registered antimicrobial additives. The company employs several industry-leading subject matter experts including PhD’s in fields such as Chemical Engineering and Mechanical Engineering, as well as multiple certified Infection Preventionists. The efforts of these individuals, in collaboration with leading medical researchers, scientists and physicians, have resulted in Seal Shield’s development of additional infection control products. Those include: the ElectroClave UV-C disinfection system and antimicrobial screen protectors which enable surfaces (including touch screens) to be disinfected with UV robots and healthcare grade disinfectants.

The Company’s greatest innovation, to date—the ElectroClave—uses UV-C LED light to achieve 360-degree disinfection of hard, non-porous surfaces with no material degradation. The ElectroClave is used by healthcare facilities to disinfect cell phones, tablets, mobile devices and PPE products.

The Seal Shield screen protectors and ElectroClave disinfection system, products which are distributed globally, were developed and are manufactured in Florida. For the past 10 years, Seal Shield has worked with Enterprise Florida to increase international exports of Seal Shield’s products.

Over the past two years, Seal Shield has repatriated Asian manufacturing and warehousing to Florida. Seal Shield currently employs forty-three people in the U.S. Thirty-six of those employees reside in Florida and work in Seal Shield’s two downtown Orlando offices or in Seal Shield’s manufacturing facility in Jacksonville.

Seal Shield’s 36, full-time, Florida based employees earn an average income of more than \$80,000 per year, and all employees receive a generous benefits package which brings the average annual compensation to over \$100,000. In addition to the Florida offices and manufacturing facility, Seal Shield contracts with a third-party, Florida based, warehouse and fulfillment center in Jacksonville.

Seal Shield’s employees embrace the company’s Ownership Thinking Culture. All Seal Shield employees have equity options in the company and collectively they hold over 20% of the company’s ownership through those options. Additionally, all employees participate in a profit-sharing plan which contributes up to 20% of the company’s profits to the employee profit sharing pool.

Seal Shield offers world class benefits: no cost health insurance; max HSA contribution; 4% 401k contribution; 15 paid holidays and a minimum of 3 weeks PTO (which increases with years of service); 12 weeks of parental leave; education reimbursement; the ability to work from home; and the “1on1” program where Seal Shield donates 1% of its profits (in the form of product donations) and 1% of employees’ time (in the form of 3 paid volunteer days) to reinvest in our communities. Through the “1on1” program, donations have been made to several Florida libraries and schools, including the Jacksonville Library and the Clarke School for hearing and speech in Jacksonville.

Seal Shield’s employees take pride in the Company Vision “To save lives and improve the quality of life by stopping the transmission of infections.” That altruistic spirit extends to the local community where employee volunteerism is extensive. One Seal Shield employee was a founding Board Member and former Board Chair of The Assistance Fund, a Forbes top 50 charity headquartered in Orlando, which provides financial assistance to patients who need life-saving medications for diseases such as Parkinson’s and Multiple Sclerosis. Seal Shield employees have held Board Member roles for Lighthouse Florida, providing assistance for the visually impaired, and Seal Shield employees co-founded Lighthouse Works, a not-for-profit social enterprise which provides work opportunities for visually impaired individuals in Central Florida. Additionally, a Seal Shield Board Member has served as Chairman for Angel Flight, an organization which provides no-charge piloted aircraft to those in need of specialized medical attention. Collectively, Seal Shield’s employees volunteer their time in a wide variety of worthwhile causes in the community.

Seal Shield has been recognized for its achievements through numerous awards including Inc. 5000, Florida Companies To Watch (Top 50 Companies In Florida), Florida Economic Gardening Institute Honoree, Orlando Business Journal Golden 100 (Top 100 Companies in Central Florida, multi-year honoree), Business Journal Fast 50 (50 Fastest Growing Companies, multi-year honoree), Business Journal’s Elite 50, and in 2021, Seal Shield was recognized as The Best Place to Work by both the Orlando Sentinel and the Orlando Business Journal, a distinction Seal Shield is proud to have received every year for the past ten years.

Seal Shield is proud of the work we do and of our contribution to the community.

Seal Shield and its products have been unfairly targeted by the EPA. Seal Shield maintains that it is not in violation of EPA regulations, nor has it ever been in violation of EPA regulations.

Beginning in 2012, Seal Shield's success led one of its competitors—a foreign corporation—to repeatedly abuse and weaponize formal complaint or grievance procedures, as well as the legal system, in an effort to gain a competitive advantage. This competitor was found liable for engaging in the unlawful and parasitic practice of cybersquatting to redirect consumers who misspelled Seal Shield's name in web browsers to its own website; unsuccessfully litigated against Seal Shield on two occasions; unsuccessfully sought to have the law licenses of two in house attorneys revoked; and most concerning, filed a series of bogus complaints against Seal Shield with the EPA. The EPA complaints were submitted from 2012 until at least 2014 and ultimately resulted in the EPA's multi-year engagement with Seal Shield.

In 2012, as a result of the competitor's first EPA complaint, alleging the antimicrobials used in its products were not EPA registered, the EPA asked for, and Seal Shield provided, the EPA registration number and invoices for the antimicrobials used in its products. The provided documentation established that Seal Shield uses and has always used EPA registered antimicrobials. This ended the EPA's inquiry.

FIFRA, legislation pertaining to antimicrobial additives and enforced by the EPA, requires that antimicrobial additives incorporated in finished goods be EPA registered "pesticides". Those finished goods, in EPA parlance, are termed "treated articles." Pursuant to FIFRA, Seal Shield limits marketing claims pertaining to its antimicrobial "treated articles" to non-public health claims permitted by FIFRA pursuant to the treated article exemption, which exemption is clarified by the EPA's Pesticide Registration Notice 2000-1, "Applicability of the Treated Articles Exemption to Antimicrobial Pesticides".

In December of 2014, and thereafter, in response to repeated complaints by Seal Shield's competitor (alleging this time that Seal Shield was claiming to be a distributor of an unregistered EPA pesticide), Seal Shield was contacted by the Region 4 Office of the EPA and subjected to a series of audits or investigations. On each occasion, several days were devoted to these surprise audits. Each of these audits could be characterized as inefficient and intrusive to the operation of the business. On each of these occasions, Seal Shield was respectful, compliant, and completely transparent with its processes and actions. On each occasion, Seal Shield has successfully supplied the requested information and been assured that it adequately addressed the Region 4's concerns, through its provided documentation.

In 2017, Seal Shield's President was summoned to the Region 4 Office in Atlanta to discuss its FIFRA compliance. He flew to Atlanta for the meeting, only to be told, on his arrival, the meeting was cancelled. The meeting was rescheduled, and Seal Shield's President again traveled to Atlanta to discuss the antimicrobial claims issue. Seal Shield was accused of "violations", but the specifics (and even nature) of the violations were not disclosed prior to the meeting. Knowing very little about the meeting's purpose, other than a Region 4-provided agenda which said, "OVERVIEW OF ALLEGED VIOLATIONS", Seal Shield's President and counsel were accused of making public health claims, in violation of FIFRA, and asked to respond, in what could be described as a "baseless, surprise attack."

Pressed for evidence, Region 4 provided excerpts of web site language they found objectionable. Upon further review, it was discovered that the questionable language was not even excerpted from Seal Shield's web site, but instead appeared on other company's web sites, such as Wal-Mart and Amazon. Underscoring the lack of Seal Shield's endorsement of the utilized language was the fact that many of the product listings were replete with inaccuracies and grammatical errors; many pertained to products which

Seal Shield had discontinued years prior. Seal Shield advised it had no control or input on the language used on these third-party web sites. But Seal Shield agreed to contact those third-party companies and request the removal of language to which Region 4 objected. Notably, Seal Shield primarily sells to very sophisticated consumers, namely hospitals, who do not buy through retail channels like those cited by Region 4, and who recognize the washability of Seal Shield's products as being their primary benefit.

In 2018, Seal Shield, upon request from EPA Region 4, supplied evidence of the efficacy of its ElectroClave UV-C disinfection system. A year later, Region 4 advised that the supplied data was insufficient, but did not elaborate, and by their own admission, there are no EPA written guidelines for efficacy data for this type of device. Consequently, Seal Shield requested, and Region 4 agreed to coordinate, a meeting with the EPA scientists who were reviewing the efficacy data, so Seal Shield could better understand what efficacy data Region 4 sought. Despite several requests from Seal Shield, and Region 4's repeated assurances it was working to schedule such a meeting, Region 4 never followed up with the meeting request or with clarification of the data it sought.

In the early days of the COVID pandemic, prior to April of 2020, when demand for Seal Shield's products had reached an unprecedented level, Region 4 conducted a raid on one of Seal Shield's largest customers/distributors, Tech Data Corporation, based in Clearwater, FL. Tech Data was placed under a gag order and forced to comply with an audit of Seal Shield's inventory and product listings. As a result of the EPA's surprise raid, Tech Data immediately dropped Seal Shield as a supplier, resulting in significant financial loss to Seal Shield.

With no warning, and no formal charges, in another instance of a baseless surprise attack, on April 20, 2020, Region 4 issued a "stop ship" (SSURO) on all Seal Shield's products, including washable keyboards, washable mice, UV resistant screen protectors, and the ElectroClave UV Disinfection System (a product which uses UV radiation and does not utilize any EPA regulated additives). Seal Shield only learned of the stop ship via a press release issued by Region 4, as Region 4 took two days after issuance to notify Seal Shield. The stop ship SSURO explicitly applied to the sale or shipment of Seal Shield's products, so it had the impact of halting emergency COVID efficacy testing being performed by Tulane University on the ElectroClave UV Disinfection System. Region 4's press release was replete with false statements and conclusions regarding Seal Shield and its products, and was immediately seized upon by Seal Shield's competitor, who began circulating it and posting it on various platforms.

The stated basis of the SSURO stop ship order fell into two categories: (1) insufficient efficacy data to support the sale of the ElectroClave; and (2) alleged "public health claims" which Region 4 contended violated FIFRA.

Seal Shield worked with scientists at the EPA's Office of Pesticide Programs, or OPP, to provide the efficacy data they desired. Having never validated a product in this category, EPA OPP acknowledged it had no written requirements (or even guidelines) to which it could refer. After reviewing efficacy data of 5 ElectroClaves, the OPP acknowledged the validity of the efficacy data, approved efficacy marketing claims, and lifted the stop ship order as to that product. While in effect, the stop ship order left hospitals without a viable means to disinfect common touch devices like phones and PPE, including N-95 masks.

As to the "public health claims" to which Region 4 objected, it took them weeks after issuance of the stop ship to point to specific objectionable language. The objections were varied but included language Region 4 had reviewed years prior, without objection. A typical example of their objections, EPA Region 4 found

Seal Shield's Mission Statement, "To prevent infections and save lives through technology and data management", objectionable. As a result, Seal Shield, though it disagreed with Region 4's overbroad interpretation of "public health claims," removed its Mission Statement from its website.

Further, Region 4 objected to Seal Shield's trademarked logo and use of the tag line "Prevent Infections. Save Lives." which appeared in a version of the Seal Shield logo utilized on the web site and other marketing material, and which is at the core of Seal Shield's ethos. As a result, Seal Shield spent days, at great expense, removing the mission tag line "Prevent Infections. Save Lives." from its marketing collateral.

Region 4's numerous overbroad objections to Seal Shield's website language even included objections to language it expressly sanctioned in Pesticide Registration Notice 2000-1. For example, Pesticide Registration Notice 2000-1 says the word "antimicrobial" may be used if in that sentence if it is made clear that the antimicrobial is "built in to protect the product". Nonetheless, Region 4 said the statement "Seal Shield keyboards and mice are 100% waterproof, washable and include antimicrobial product protection" is "not acceptable under the Treated Articles Exemption". Similarly, it objected to the statements: (1) "The SEAL SHIELD™ screen protector is designed to work with virtually all medical grade, commercial grade, antibacterial, antiviral and antifungal sprays to kill most known surface contaminants including SARS, Influenza, Staph and MRSA." And (2) "Seal Shield's technology allows IT equipment to be washed, making it possible to rid that equipment of dangerous pathogens." Clearly, none of these statements pertain, in any way, to the embedded antimicrobial agent, and are, therefore, in complete compliance with the EPA's published guidelines.

Region 4 made clear it was not operating in good faith, refusing to identify with specificity, in a single document, all the Seal Shield claims to which it objected. After two months, the EPA headquarters in Washington, D.C. intervened, resulting in a sudden shift in Region 4's uncooperative behavior, and the complete lifting of the SSURO. Describing Region 4's actions and the press release as an "abomination", the leadership in Washington directed the immediate removal of Region 4's press release. No specific violations were identified, and no fines were proposed at the time.

One year went by with no further harassment from Region 4. Seal Shield continued to struggle through the damages created by the EPA SSURO and false press release statements, which although removed by the EPA, continue to be circulated by Seal Shield's competitors. In April of 2021, after not having heard from them for almost a year, Region 4 again contacted Seal Shield, requesting a meeting. An agenda was requested, but never provided, leaving Seal Shield unable to prepare.

On a May 14, 2021 call with Region 4, representatives informed Seal Shield that the company faced \$475,000 in fines, based on unidentified past violations pertaining to product claims. The penalty calculation discussion was conspicuously devoid of specifics. Unable to demonstrate the calculation in writing, Region 4 promised to, by the following week, send documentation of the alleged violations, as well as a written calculation of the penalty amount.

Three weeks later, Seal Shield followed-up with Region 4 to inquire about the status of the promised documentation. In response, they scheduled another meeting but when asked, declined to provide an agenda. At the meeting, Region 4 representatives explained they had not provided the promised back-up documentation because they had decided to continue to evaluate Seal Shield for compliance. On June

29, 2021, without any notice or discussion, Region 4 issued yet another SSURO stop ship against Seal Shield, once again shutting down the business.

Region 4 has clearly demonstrated a vendetta against Seal Shield and its Mission. Region 4 has consistently abused its authority by overbroad enforcement via surprise attacks, often with inaccurate data and in contradiction to their own published guidelines. Region 4 has targeted Seal Shield in a manner which is not consistent with the treatment of any other companies operating in the same industry.

Seal Shield requests that it ceases being unfairly targeted and harassed by Region 4. Seal Shield requests an immediate lifting of the current SSURO and removal of the associated press release from the EPA web site. Additionally, based on the pattern of bad faith, overbroad, inaccurate, and surprise enforcement actions dating back almost ten years, Seal Shield requests the relief of being removed from Region 4 to EPA headquarters or another region. If Seal Shield is assigned to another region, it asks that the new region be selected by headquarters, not Region 4. Seal Shield has done nothing wrong and should not be subject to fines or continued harassment. Due to the abuse of authority in Region 4, Seal Shield believes it is more likely to receive fair and equitable treatment under the jurisdiction of EPA Headquarters or another regional office. In fact, EPA headquarters has been consistent in its reasonable, cooperative dealings with Seal Shield.